

Paper 18 - Indirect Tax Laws and Practice

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Full Marks: 100

Time allowed: 3 hours

**The figures in the margin on the right side indicate full marks.
Working notes should form part of the answer.**

**Section - A
Answer Question No. 1 which is compulsory**

1. Choose the correct answer with justification/ workings wherever applicable: [8×2=16]

- (i) How much Cenvat credit can be availed by SSI units on capital goods in the financial year when the same are received by him?
(A) 50%
(B) 100%
(C) Not eligible for Cenvat credit at all
(D) Not eligible for Cenvat credit in that year.
- (ii) If goods are pilfered after the order of clearance is made but before the goods are actually cleared, what will be the consequence?
(A) No duty is payable by the importer
(B) Importer has to pay duty and no refund can be claimed
(C) Importer has to pay duty but refund can be claimed
(D) None of the above.
- (iii) Which of the following service is not included in the definition of input services as per Cenvat Credit Rules?
(A) credit rating;
(B) legal services;
(C) services provided in relation to health services used primarily for personal use;
(D) coaching and training
- (iv) Which of the following is not 'goods' under CST Act?
(A) Lottery tickets
(B) Electricity and electric meters
(C) Copyrights
(D) Claim for loss or damages
- (v) M/s. DLF Ltd., sponsored ₹ 20 lakhs in respect of a Tournament organized by Board of Council for Cricket in India (BCCI). The person liable to pay tax:
(A) DLF Ltd.
(B) BCCI
(C) both DLF Ltd. & BCCI
(D) exempted service.
- (vi) Mr. A purchases the goods from a manufacturer for ₹ 1,000 plus VAT @4%. If he, sell the same by adding ₹ 200 profit, his net VAT payable will be:
(A) 48
(B) 8
(C) 40
(D) None of the above.
- (vii) Which of the following agriculture services or agricultural produce is excluded from the negative list of services?
(A) Cultivation, harvesting, seed testing
(B) Renting of agro machinery
(C) Cultivation of ornamental flowers
(D) Grinding, sterilizing extraction of packaging in retail packs of agricultural products.
- (viii) Authorisation for Export Promotion Capital Goods (EPCG) Scheme is valid for :
(A) 15 months from the date of issue of Authorization

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- (B) 12 months from the date of issue of Authorization
- (C) 6 months from the date of issue of Authorization
- (D) 18 months from the date of issue of Authorization.

Section – B

Answer any four questions out of six questions given. Each question carries 16 marks.

- 2.(a)** JE Ltd., manufactures two products L and M, L being a product specified under section 4A of the Central Excise Act, 1944. The sale prices of L and M are ₹ 60 and ₹ 40.80 per unit, respectively. The selling price of product M includes 12.5% basic excise duty, also 2% CST. For product L, 30% abatement is allowable under section 4A. 10,000 units of each product were removed from the factory to sales depots. Common inputs were used to manufacture product L and M. Total excise duty was paid on these inputs for ₹ 10,300. You are required to compute the excise duty liability. Product L is exempted from excise duty. JE Ltd. opted to pay an amount on exempted final product. **[9]**
- (b)(i)** A manufacturer purchased certain inputs from Z. The, assessable value was ₹ 20,000 and the Central Excise duty was calculated at ₹ 3,296 making a total amount of invoice at ₹ 23,296. However, the buyer manufacturer paid only ₹ 20,800 to Z in full settlement of this bill. How much CENVAT credit can be availed by the manufacturer and why? **[4]**
- (ii)** Some inputs for final products were received in the factory of JKA Ltd. These were accompanied by a certified Xerox copy (photo copy) of Invoice No. 286 dated 15.1.17 indicating that Excise duty of ₹ 6,400, has been paid on inputs. The original or duplicate copies of invoice are not traceable. Indicate the eligibility of CENVAT Credit in this case under the CENVAT Credit Rules, 2004 with explanations. **[3]**
- 3.(a)(i)** An importer imported some goods for subsequent sale in India. The Customs Officer assessed value of goods for ₹ 10,19,090.
The above value includes the following:
Air Freight 25% on Free on Board (FOB)
Insurance @1.125%
Unloading charges @1% on Cost, Insurance and Freight (CIF)
Importer approached you to find correct assessable value for his import. **[7]**
- (ii)** X Ltd. imported 500 units of minerals from High Seas for sale in India. Selling price exclusive of duties and taxes. Freight from port to depot in India is ₹ 10,150 and Insurance ₹ 1,250.
- | Sale quantity | Unit price |
|---------------|------------|
| 400 units | 100 |
| 300 units | 90 |
| 150 units | 100 |
| 500 units | 95 |
| 250 units | 105 |
| 350 units | 90 |
| 50 units | 100 |
- Basic Customs Duty 12% and education cess as applicable. Calculate total customs duty as per Rule 7 of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007. Assume there are no CVD and Spl. CVD applicable for the product. **[5]**
- (b)** State the procedures to be adopted to import second hand goods under FTP. **[4]**

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4.(a) X Ltd. commenced its business on 1st Dec 2016, in Chennai. Services provided during the year 2016-17 are as follows:

- (A) Services provided under its own brand name ₹ 11,00,000 (out of which services of ₹ 1,20,000 has been wholly exempted from S.T. under NT 25/2012 dt. 20-6-2012).
- (B) Services provided with brand name of PQR Ltd. ₹ 2,00,000.
- (C) Services availed from goods transport agency and paid freight of ₹ 2,50,000.

Find out service tax liability for the year 2016-17, if X Ltd. availed small service provider exemption. **[8]**

(b) Mr. Sharvil reported under mentioned data for the financial year 2016-17:

	Amount ₹
(i) Total interstate sales during the F.Y. 2016-17 [Inclusive of C.S.T]	1,01,55,800
(ii) Above sales include excise duty	13,60,000
(iii) Incentive on sales received from manufacturer	2,30,000
(iv) Deposit for returnable containers and packages	8,00,000
(v) Good worth ₹ 87,550 (inclusive of tax) made vide Invoice No. 101/ACA, dated 29.9.2016 were returned on 31.3.2017.	

Determine the turnover and CST payable assuming the rate of tax at 2%. **[8]**

5.(a)(i) Briefly examine whether the following activities are liable to service tax as per the provisions of Finance Act, 1994.

- (A) Mr. Ravi, a singer performs in a bus where passengers drop some coins in his bowl kept, either after feeling rejoiced or out of compassion.
- (B) Mr. Rajesh during long drive with his wife Manju violated traffic rules and was imposed fine of ₹ 1,000.

Also, examine would your answer be different in (i) if Mr. Ravi is called upon Mumbai to perform in an award show for ₹ 50,000. **[6]**

(ii) Services of a NGO registered under sec. 12AA of the Income Tax Act, 1961 working for the rehabilitation of disabled. The aggregate value of taxable services is ₹ 20 Lakh. Determine its taxability. **[2]**

(b) Mr. R has received the following amounts from the activities undertaken by him during the quarter ended on 31st March 2017:

S. No.	Particulars	₹ (in lakhs)
(i)	Amount received for trading in Government securities*	8.00
(ii)	Amount received for trading in shares*	14.50
(iii)	Commission for acting as clearing and forwarding agent	18.25
(iv)	Commission earned on sale of goods belonging to others	1.75
(v)	Charges for providing auxiliary service relating to commodity futures	7.00

*represents difference between sale price and purchase price.

You are required to compute the value of taxable services and service tax liability of Mr. R for the said quarter.

Note:

- I. Rate of service tax is 14% and Swachh Bharat Cess @ 0.5% and KKC @ 0.5% are applicable. All the above amounts are exclusive of service tax.
- II. Mr. R is not eligible for small service provider's exemption under Notification No. 33/2012-ST, dated 20.06.2012. **[8]**

6.(a)(i) National Instruments Systems imported various products from its Holding Company and supplies the same to its customers in India. The imported products are PXI Controllers, Input/output Modules, Signal Converters, chassis and its parts. Assessee claims that these products were computer based instrumentation products. Accordingly N.I. Systems filed 64 bills of entries, under Customs Tariff Headings 8471, 8473 and other headings falling under Chapter 84.

However, on verification of the technical data (including the catalogue and the webcast of the importer), Department observed that the subject goods were not structurally designed to function as a computer. PXI Controllers, I.O. Modules and Chassis are parts and accessories of a system/instrument which are suitable for use solely or mainly with a number of machines, instruments, apparatus of the same Heading, i.e., 9032 like sensors, thermostats etc.

Discuss in the light of decided case law, if any, whether the view of the department is correct in law? **[6]**

(ii) An assessee claims that CENVAT credit can be availed on machineries purchased for being used in setting up a sugar plant in foreign country. But Department claims that the bought-out machinery was not eligible capital goods as the same had not been used by the assessee in its factory premises. **[5]**

(b) The assessee's firm was engaged in the activity of developing of exposed negatives, film processing, and printing of photographs. According to the assessee, the services rendered by a colour photo laboratory did not fall within the mischief of "photography" and/or "photography studio or agency". Hence, they were not liable to pay the service tax. However, Department contended the views of assessee's and demanded the service tax under the category of photography and/or photography studio or agency services. **[5]**

7. Answer any four:

[4×4]

(a) Mr. Q owns a sole proprietorship firm, 'Safe and Super Importers'. Mr. Q has never been to any place outside India. The firm proposes to import a product. Mr. Q is not sure of the correct classification of the product under Customs Tariff. His Tax Consultant has informed him that the said classification issue has been decided by the CESTAT in a different case. However, Mr. Q does not want to take any chances and is desirous of obtaining a ruling from the Authority for Advance Ruling under section 28H of the Customs Act, 1962 with respect to the classification of the product to be imported by it. In the light of recent amendments, state whether Safe and Super Importers can seek advance ruling in the present case under the Customs Act, 1962? **[4]**

(b) X Ltd has exported following goods to USA. Discuss whether any duty drawback is admissible under section 75 of the Customs Act, 1962.

Product	FOB Value of Exported goods (₹)	Market Price of goods (₹)	Duty drawback rate
A	2,50,000	1,80,000	30% of FOB
C	8,00,000	8,50,000	3.50% of FOB

Note: Imported value of product C is ₹ 9,50,000. **[4]**

(c) S Ltd. has given his tempos on hire to M Ltd for transportation of food stuff for ₹ 40,00,000. S Ltd. also transferred the right to use such tempos to M Ltd. S Ltd has not paid any service tax on the consideration so received. Discuss whether S Ltd is liable to pay service tax on the said transaction. **[4]**

(d) Mr. H is the owner of a restaurant selling food. He opted to pay the VAT by way of composition of tax. For January 2017, his total sales were ₹ 100,000. He also purchased the input material after payment of VAT of ₹ 1,000. Calculate the net VAT liability of Mr. H. **[4]**

(e) "Duty credit scrip can be used for importing inputs and capital goods which are freely transferable." — State the uses of duty credit scrip under FTP. **[4]**

Section – C

Answer Question No. 8 which is compulsory and any one question out of two questions given.

8. Choose the correct answer with justification/ workings wherever applicable: [2×2=4]

- (i) Which of the following is included for computation of taxable supplies for the purpose of availing credit?
(a) Zero-rated supplies
(b) Exempt supplies
(c) Both
(d) None of the above.
- (ii) A person in Goa buys shares from a broker in Delhi on NSE (in Mumbai). What will be the place of supply?
(a) Delhi
(b) Mumbai
(c) Goa
(d) None of the above.

9.(a) What is Integrated Goods & Services Tax (IGST)? [4]

(b) State the restrictions/ limitations of Composition Scheme under GST. [4]

(c) An individual buys a car for personal use and after a year sells it to a car dealer. Will the transaction be a supply in terms of CGST/SGST Act? Give reasons for the answer. [4]

(d) Will import of services without consideration be taxable under GST? Justify. [4]

10.(a) What is Goods in the regime of GST? [4]

(b) Why Dual GST is required? [4]

(c) The place of supply in relation to immovable property is the location of immovable property. Suppose a road is constructed from Delhi to Mumbai covering multiple states. What will be the place of supply? [4]

(d) State the purpose of returns in GST. [4]